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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/757,471 | 01/11/2001 | Kazunori Suemoto | 3562-0112P | 7817 |
| 2292 | 7590 | 11/01/2006 | | EXAMINER |
| BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | | HO, TUAN V |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2622 | |

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/757,471 | SUEMOTO ET AL. | |
| | Examiner | Art Unit | |
| | Tuan V. Ho | 2622 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 August 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3, 5-17, 19-20 and 22-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,9,10,17,26,27,35,37,38,41,44-49,53,54,56 and 57 is/are rejected.
- 7) Claim(s) 2,3,5-8,11-20,22-25,28-33,36,37,39,40,42,43 and 50-58 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's arguments filed 8/17/06 have been fully considered but they are not persuasive.

Applicants argue:

With regard to claim 1, "Kubo cannot teach or suggest the feature of the preset instruction being set based on the order of media loaded to the plurality of medium wearable units". In response to the arguments the examiner takes a broader interpretation and notes that medium wearable units a write-execution medium wearable unit that executes writing of data (selection switch 6b, col. 6, lines 30-38); and a selection controller for controlling said medium selector (camera control CPU 31, col. 5, line 65), said selection controller for execution medium wearable unit according to a preset instruction that reflects a user's medium selection trait (col. 6, lines 18-38), wherein said preset instruction is set based on an order of media loaded to said plurality of medium wearable units (selection switch 6b sets a preset instruction so as image signals being recorded memories in accordance with positions of the switch), and wherein said selected medium wearable unit writes the data to the respective loaded memory medium (card rivers 16a or 16b writes image data into the memory cards in accordance with an instruction, col. 61 lines 18-38).

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With regard to claims 17, 35, 38 and 41, the claims recite the same features as previously discussed with respect to claim 1.

With regard to claims 34, 41 and 40, the rejection of the claims is clearly discussed in paragraph 3 of the last Office action.

It should be noted that claims 5 and 19 (corresponding to claims 22 and 2) are objected and claims 46 and 47 (corresponding to claim 44) are also rejected.

For the above reasons, the rejections are repeated.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1, 9, 10, 44, 17, 26, 27, 35, 37, 38, 45-49, 48, 41, 53-54 and 56-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Kubo (US 6,992,711).

With regard to claims 1, 53-54 and 56-57, Kubo discloses in Fig. 14, a digital camera that comprises the memory media (recording media 40 includes memory cards 40a and 40b, col. 5, lines 13-16)+slots 40a and 40b, col. 4, line 63-67), plurality of medium wearable units in which a respective memory medium is loaded detachably (slots 41a and 41b and card drivers 16a and 16b, col. 5, lines 13-16); a medium selector for selecting from said plurality of medium wearable units a write-execution medium wearable unit that executes writing of data (selection switch 6b, col. 6, lines 30-38); and a selection controller for controlling said medium selector (camera control CPU 31, col. 5, line 65), said selection controller for automatically selecting said write-execution medium wearable unit according to a preset instruction that reflects a user's medium selection trait (col. 6, lines 18-38), wherein said preset instruction is set based on an order of media loaded to said plurality of medium wearable units (selection switch 6b sets a preset instruction so as image signals being recorded memories in accordance with positions of the switch), and wherein said

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selected medium wearable unit writes the data to the respective loaded memory medium (card drivers 16a or 16b writes image data into the memory cards in accordance with an instruction, col. 6, lines 18-38).

With regard to claim 9, Kubo discloses in Fig. 14, a digital camera that comprises the type of data to be written (subject recording and not subject recording, col. 3, lines 10-15).

With regard to claim 10, Kubo discloses in Fig. 14, a digital camera that comprises the plurality of preset instructions (switch 6b can select three different preset instructions, col. 6, lines 30-38).

With regard to claim 44, Kubo discloses the camera (digital camera).

Claims 17, 26, 27, 35, 37, 38, 45-48, 41 recite what was discussed with respect to claims 1, 9, 10 and 44.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

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subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 34, 41, 46 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubo.

With regard to claims 34, 41, 55 and 58, Kubo discloses the same subject matter as discussed with respect to claim 1, except that computer readable medium stored thereon a computer program comprising set of instructions, when executed by a computer.

Kubo does explicitly disclose any computer program stored in a computer readable medium executable by a computer so as to implement the methods. Official Notice is taken a computer program stored in a computer readable medium executable by a computer so as to implement methods.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the CPU 31 of Kubo so as to obtain a computer program stored in a computer readable medium executable by a computer so as to implement the methods because the computer program stored in a computer readable medium would allow the CPU of Kubo executing the steps of the method faster and minimized

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executing errors.

With regard to claims 46 and 49, Kubo discloses the camera (digital camera).

3. Claims 2-3, 5-8, 11-17, 18-19, 20, 22-25, 28-33, 36, 37, 39-40, 42-43, and 50-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN HO whose telephone number is (571) 272-7365. The examiner can normally be reached on Mon-Fri from 7AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is (572) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600.



TUAN HO

Primary Examiner

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